

CATHOLIC HEALTH AUSTRALIA

26 &amp; 27 AUGUST 2019

## 2019 GOVERNANCE SYMPOSIUM

Stewards of the  
Mission encountering  
a 'Change of Era'



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- Commissions and Missions – Idle Musings on Royal Commissions and Catholic Ministries
- The Hon Neville Owen
- 27 August 2019

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### Prevalence, processes and purpose of Royal Commissions

- Prevalence of RCs
  - Since 1900: 137 (Federal) and 380 (State and Territory)
  - In the last two decades: approximately 20
- RCs are not trials – they make no binding declarations of rights
- They are bound and confined by their terms of reference
- What Counsel Assisting says is not a finding
- Why Royal Commissions?
  - Erosion of trust in the political process?
  - Need to restore trust in vital elements of public life

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### The workings of a Royal Commission

- Applying objectivity and dispassion in the investigative and decision-making processes
- “Shining the light” and creating the historical record
- The efficacy of RCs in dealing with catastrophic failures
  - The ‘end’: search for systemic deficiencies to inform policy development
  - The ‘means to the end’: role of individual case studies in identifying systemic deficiencies
- A sense of proportion
- “Shining the light”: the critical importance of **procedural fairness** and the reality of trial in the ‘court of public opinion’
- “Therefore, stay alert! You don’t know when the head of the household will come” [Mark, Ch 13, v35]

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### Slipping off the tongue – terms of endearment

- Key performance indicators
- Corporate synergy
- Disrupters
- Ideation
- Best practice
- Governance
- Deep dive
- Core business
- Culture
- Leadership

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### The Core Business

- What is your ‘core business’?
- Where does the ‘Mission Statement’ fit in?
- What does the phrase ‘the healing mission of Jesus Christ’ actually mean?
- Is a ministry a “U” or an “inverted E”?

## Culture – what is it?

- “The culture of an entity can be described as the ‘shared values and norms that shape behaviours and mindsets’ within the entity. It has been described as ‘what people do when no-one is watching’ and that description captures what might be called the essentially ‘internalised’ or ‘instinctive’ application of shared values and norms.”

• Financial Services Royal Commission, Final Report, Vol 1, p334

## Culture – the fundamentals

- Must apply across the entire organisation [shared]
- It is not ingrained – it must be learned [internalised, instinctive]
- But that process must come from within; it cannot be imposed from outside, especially by legislation
- It involves individual accountability within the framework of shared responsibility
- It is essentially a matter of values, [the end] aided by norms [a means to the end]
- The objective is a shaping of behaviours and mindset

## Culture and governance are interdependent

Those companies with an ethical culture are likely to adopt appropriate corporate governance practices, while those where this culture is lacking are more likely to continue to adopt an idiosyncratic or expedient approach.

I am not so much concerned with the content of a corporate governance model as with the culture of the organisation to which it attaches. ... For me, the key to good corporate governance lies in substance, not form. It is about the way the directors of a company create and develop a model to fit the circumstances of that company and then test it periodically for its practical effectiveness. It is about the directors taking control of a regime they have established and for which they are responsible.

Directors who take the fundamental notions of openness, integrity and accountability seriously ... will be well on the way to good corporate governance.

HHH Royal Commission Report, Vol 1, Ch 6

## Leadership – Treatment in the Royal Commissions

- References in the Royal Commission reports to ‘leadership’
- Banking Royal Commission: 26
  - “Because primary responsibility for misconduct in the financial services industry lies with the entities concerned and those who manage and control them, effective leadership, good governance and appropriate culture within the entities are fundamentally important.”
- Sex Abuse Royal Commission Book 16: 356
  - “In our *Catholic Church authorities in Ballarat* case study we found that, over decades, there had been a catastrophic failure in the leadership of the diocese, and ultimately in the structure and culture of the Church, to effectively respond to the sexual abuse of children by its priests.”
- Almost all of these references are to the noun, ‘leadership’.
- What about the verb, ‘to lead’? What is the essence of real leadership?

## Leadership – Traits of a Person who can Lead

- Leadership is not easy!
- The traits or elements necessary ‘to lead’
  - Courage (intellectual fortitude, moral fibre)
  - Casuistic (decides according to conscience and ethics)
  - Consensus (brings people along)
  - Cognizance (discernment)
  - Consideration (a reflective approach to decision making)
  - Commitment (to a cause, to the ideal of service to others)
  - Constancy (loyalty)
  - Communication (impart knowledge, listen to others)
  - Compassion (understanding of humanity)

## An illuminating exchange in the Banking Royal Commission

- “Because underneath the very large raft of regulatory provisions we see, I wonder whether at least many of them can be seen as reflecting only about four or five readily grasped ideas. (1) don’t mislead or deceive. (2) don’t act unconscionably, or if you don’t like the word don’t act unconscionably, be fair. (3) is it fit for purpose? [4] ... Do your job with due skill and care.
- Now, strip a lot of the detail of the legislation and you won’t capture all the nuances in those four or five ideas, but for a bank officer on the ground is that something that the bank officer needs to be told are the informing principles that lie behind compliance?—Yes, Commissioner, I think so. I think perhaps the tendency in the past has been to – not deliberately, but has had the effect of clouding some of those basic principles through multiplicity.”
- What does this mean?
  - Act honestly
  - Act fairly
  - Aim to achieve proper objectives and stay within power
  - Always do your best

### What Leaders Should Promote

- Creation of a platform from which springs a culture of compliance
- Fostering a culture of compliance: a predisposition to making a decision because it seems right (the smell test, conscience)
- Demonstrating a commitment to an ethical framework in decision making
- Understanding compliance as 'obedience to an ideal' (being satisfied with the best)
  - 'Obedience' from its Latin root, *ob oedire*, 'to hear'.
- Demanding performance, not conformance (no ticking boxes, no one size fits all)
- Insisting on substance over form
- Focussing the organisation on what it does best (attending to the core business)

### Ethical method for the modern era [the nutshell edition]

- '- - - did anyone stand back and ask themselves the simple question—is this right?'
- '- - - it would be a shame if the prescription of - - - models and standards of conduct for [participants] became the beginning, the middle and the end of the decision-making process.
- Right and wrong are moral concepts, - - - . [Participants] need to identify and examine what they regard as the basic moral underpinning of their system of values. They must then apply those tenets in the decision-making process.
- 'In an ideal world [participants] would begin the process by asking: is this right? - - - [the decision] will have been informed by a consideration of whether it is morally right.'
- 'In [health care ministries], as elsewhere, we should at least aim for an ideal world.'

• The H1H Royal Commission Report, p lxii-lxiii